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9	UNITED STATES DISTRICT COURT
10	FOR THE NORTHERN DISTRICT OF CALIFORNIA
11	SAN JOSE DIVISION
12	ISAAC NICHOLAS,) No. C 08-4082 RMW (PR)
13	Petitioner, ORDER DENYING CERTIFICATE
14	vs.) OF APPEALABILTY
15	DEPARTMENT OF CORRECTIONS, et)
16	al.,) (Docket No. 14) Respondents.)
17	
18	Petitioner, a California prisoner proceeding pro se, filed a petition for a writ of habeas
19	corpus pursuant to 28 U.S.C. § 2254, seeking enforcement of an injunction order from a separate
20	case, and challenging (1) his out-of-state transfer while he suffers from a serious medical
21	condition and (2) medical staff's deliberate indifference to his serious medical needs. The court
22	noted that petitioner's claims were more appropriately addressed in a civil rights complaint
23	pursuant to 42 U.S.C. § 1983 and dismissed the petition because it did not challenge the duration
24	or legality of his confinement or sentence under § 2254. Petitioner has filed a motion for a
25	certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
26	Upon the filing of a notice of appeal and a request for a certificate of appealability
27	(COA), the district court shall indicate which specific issue or issues satisfy the standard for
28	Order Denying Certificate of Appealability P:\PRO-SE\SJ.Rmw\HC.08\Nicholas082coaden.wpd 1

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issuing a certificate, or state its reasons why a certificate should not be granted. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997) (citing 28 U.S.C. § 2253(c)(3)). The court concludes that petitioner has not shown "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, petitioner's request for a certificate of appealability is DENIED. The clerk shall serve notice of this order forthwith to the United States Court of Appeal and to the parties. See Fed. R. App. P. 24(a). This order terminates docket no. 14. mald M. Whyte IT IS SO ORDERED. 3/16/09 DATED: United States District Judge

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